

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSHUA HOBES,

Plaintiff,

-against-

A. RODRIGUEZ (DIRECTOR OF SHU);
EDWARD BURNETT (SUPERINTENDENT);
KEVIN FIERRO (VOC. SUPERVISOR);
JORDANO RIVERA-PADILLA (CO); A.
STUETZLE (CO); JOSEPH BIANCHI (CO);
GLENNIS NELSON (CO); RAY LAUTERETT
(SERGEANT),

Defendants.

24-CV-02484 (PMH)

ORDER OF SERVICE

PHILIP M. HALPERN, United States District Judge:

Plaintiff, who is proceeding *pro se* and currently is incarcerated at Great Meadow Correctional Facility, brings this action under 42 U.S.C. § 1983, alleging that Defendants violated his federal constitutional rights when he was incarcerated at Fishkill Correctional Facility. The Court granted, on April 23, 2024, Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees.¹ (Doc. 5).

DISCUSSION

A. Service on Defendants

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

² Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that any summonses be issued. The Court therefore extends the time to serve until 90 days after the date any summonses issue.

(2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on Defendants Director of Special Housing A. Rodriguez; Superintendent Edward Burnett; Vocational Supervisor Kevin Fierro; Sergeant Ray Lauterett; and Correction Officers Jordano Rivera-Padilla, A. Stuetzle, Joseph Bianchi, and Glennis Nelson through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for each of these defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

If the complaint is not served within 90 days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service). Failure to request an extension of time for service may result in this action being dismissed pursuant to Federal Rule of Civil Procedure 4(m).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

B. Local Civil Rule 33.2

Local Civil Rule 33.2, which requires defendants in certain types of prisoner cases to respond to specific, court-ordered discovery requests, applies to this action. Those discovery requests are available on the Court’s website under “Forms” and are titled [“Plaintiff’s Local Civil Rule 33.2 Interrogatories and Requests for Production of Documents.”](#) Within 120 days of service

of the complaint, Defendants must serve responses to these standard discovery requests. In their responses, Defendants must quote each request verbatim.³

CONCLUSION

The Clerk of Court is instructed to issue summonses for Defendants Director of Special Housing A. Rodriguez, Superintendent Edward Burnett, Vocational Supervisor Kevin Fierro, Sergeant Ray Lauterett, and Correction Officers Jordano Rivera-Padilla, A. Stuetzle, Joseph Bianchi, and Glennis Nelson; complete the USM-285 form with the address for these defendants; and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is further instructed to mail an information package to Plaintiff.

Local Civil Rule 33.2 applies to this action.

SO ORDERED.

Dated: White Plains, New York
April 29, 2024



PHILIP M. HALPERN
United States District Judge

³ If Plaintiff would like copies of these discovery requests before receiving the responses and does not have access to the website, Plaintiff may request them from the Pro Se Intake Unit.

DEFENDANT AND SERVICE ADDRESS FOR EACH DEFENDANT

1. Director of Special Housing A. Rodriguez
1220 Washington Avenue
Albany, NY 1226-2050
2. Superintendent Edward Burnett
Fishkill Correctional Facility
18 Strack Drive
Beacon, NY 12508
3. Vocational Supervisor Kevin Fierro
Fishkill Correctional Facility
18 Strack Drive
Beacon, NY 12508
4. Correction Office Jordano Rivera-Padilla
Fishkill Correctional Facility
18 Strack Drive
Beacon, NY 12508
5. Correction Officer A. Stuetzle
Fishkill Correctional Facility
18 Strack Drive
Beacon, NY 12508
6. Correction Officer Joseph Bianchi
Fishkill Correctional Facility
18 Strack Drive
Beacon, NY 12508
7. Correction Officer Glennis Nelson
Fishkill Correctional Facility
18 Strack Drive
Beacon, NY 12508
8. Sergeant Ray Lauterett
Fishkill Correctional Facility
18 Strack Drive
Beacon, NY 12508